

## REMARKS

Claims 1-22 are pending in the case.

In the Office Action, page 1, it is stated the scope of the examined subject being Group I from the restriction requirement:

Compounds of the formula (II) where :

**G** is all carbocyclic rings

**Ar** is all carbocyclic rings;

**X** is all carbocyclic rings;

**Y** is as claimed;

**R1** as claimed except the heterocyclic or heteroaryl rings;

**R2, R4, R5, R6, R11, R16, R18, R21** as claimed;

**R3** is all acyclic moieties claimed;

**R7-R10, R12-R15, R17, R19, R25, R26** are the carbocyclic rings claimed;

**R20** is alkyl optionally partially or fully halogenated or phenyl;

**R22, R24** cannot form a heterocyclic ring;

**m** as defined;

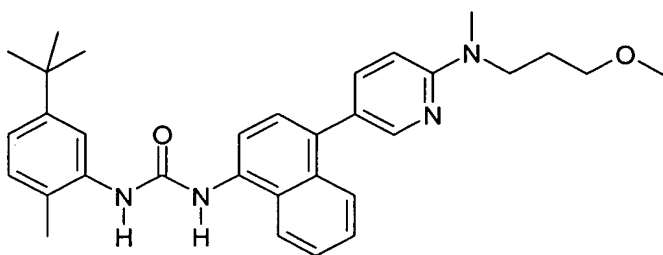
**W** is O or S;

Pharmaceutical compositions.

Applicants' attorney would like to point out however that, as mentioned in the response to the restriction requirement dated 5/27/2004, in a discussion with the Examiner on May 19, 2004, it was agreed upon to modify Group I as follows:

**X** is 5 or 6-membered rings containing 1 or 2 nitrogens; **R3** is all acyclic moieties listed. All other definitions, as identified in Group I of the present restriction requirement, is to remain the same.

Therefore, in view of this agreed modification, applicants had elected in response to the election/restriction requirement the compound:



Which is example 18, page 166 and is also found in claim 16, the 1st compound listed.

Applicants assume the scope of the claims identified by the Examiner in the present Office Action is an error because the Office Action states that example 18 was the elected species. Applicants await the Examiners written confirmation prior to canceling nonelected subject matter. Applicants respectfully request rejoinder of the method and process claims of equal scope upon a finding of allowable compound claims.

Claims 1-5 have been rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-5, 8-17 of US patent no. 6,660,732. This rejection is traversed.

It is alleged that the 6,660,732 Z radical is a subgenus of the instant Z. Applicants respectfully disagree.

The instant application is a divisional case of US 6,660,732 application serial number 09/962,709. The Office Action of 09/962,709 attached herewith as *exhibit A* shows on page 2, point 3 that limitation to where Z is a ring was required. Therefore the patent's claim language, such as that in claim 1 reads:

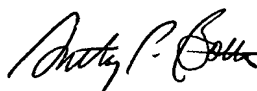
phenyl, pyridinyl, pyrimidinyl, pyridazinyl, pyrazinyl, imidazolyl, pyrazolyl, triazolyl, tetrazolyl, furanyl, thienyl, pyranyl, each being optionally substituted with one to three halogen, C1-6 alkyl, C1-6 alkoxy, hydroxy, amino, mono- or di-(C1-3 alkyl)amino, C1-6 alkyl-S(O)m, CN, CONH2, COOH or phenylamino wherein the phenyl ring is optionally substituted with one to two halogen, C1-6 alkyl or C1-6 alkoxy;

tetrahydropyranyl, tetrahydrofuranyl, 1,3-dioxolanonyl, 1,3-dioxanonyl, 1,4-dioxanyl, morpholinyl, thiomorpholinyl, thiomorpholino sulfoxidyl, thiomorpholino sulfonyl, piperidinyl, piperidinonyl, piperazinyl, tetrahydropyrimidinonyl, cyclohexanonyl, cyclohexanoly, pentamethylene sulfidyl, pentamethylene sulfoxidyl,

pentamethylene sulfonyl, tetramethylene sulfide, tetramethylene sulfoxidyl or tetramethylene sulfonyl each being optionally substituted with one to three *nitrile, C1-6 alkyl, C1-6 alkoxy, hydroxy, amino, mono- or di-(C1-3 alkyl)amino-C1-3 alkyl, CONH2, phenylamino-C1-3 alkyl or C1-3 alkoxy-C1-3 alkyl*;

A plain reading of the claims shows as emphasized in underline and italic that the listing of rings are definitions of Z, each Z ring can be substituted for the moieties in italics. The moieties in italics are not alternate possibilities for Z, but substitutions on the Z rings. The applications therefore is a proper divisional case of the US 6,660,732 patent, withdrawal of the obviousness-type double patenting is proper and respectfully requested.

Respectfully submitted,



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By: Anthony P. Bottino  
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Exhibit A

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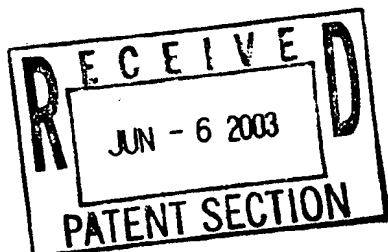
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ANTHONY BOTTINO

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